

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

~~Charlotte~~ Division  
Asheville

Case No.

1:24-cv-00108-GCM  
(to be filled in by the Clerk's Office)

Luis Antonio Rosado JR.

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Ms. Langdon, et. al

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

FILED  
ASHEVILLE, NC

APR 11 2024

U.S. DISTRICT COURT  
W. DISTRICT OF N.C.

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS  
(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Luis A. Rosado Jr.

All other names by which  
you have been known:

ID Number

1087392

Current Institution

Marion Correctional Institution

Address

355 old Glenwood Rd.

Marion

City

NC

State

28752

Zip Code

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Ms. Langdon

Job or Title (*if known*)

Psychologist

Shield Number

Employer

Marion Correctional Institution

Address

355 old Glenwood Rd

Marion

City

NC

State

28752

Zip Code



Individual capacity



Official capacity

Defendant No. 2

Name

Cindy Hayes

Job or Title (*if known*)

Shield Number

Employer

Marion Correctional Institution

Address

355 old Glenwood Rd

Marion

City

NC

State

28752

Zip Code



Individual capacity



Official capacity

## Defendant No. 3

Name

Kevin Freeman

Job or Title (if known)

Unit Manager

Shield Number

Employer

Marion Correctional Institution

Address

355 old Glenwood Rd

Marion  
CityNC  
State28752  
Zip Code☒ Individual capacity☒ Official capacity

## Defendant No. 4

Name

Mr. Haynks

Job or Title (if known)

A.D.A Coordinator

Shield Number

Employer

Marion Correctional Institution

Address

355 old Glenwood Rd

Marion  
CityNC  
State28752  
Zip Code☒ Individual capacity☒ Official capacity

## II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

5<sup>th</sup> Amendment Rights, 8<sup>th</sup> Amendment Rights, A.D.A., Negligence

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

I. B Defendant # 5. Christine M. Khandelwal

Job or Title: President of Medical Board

Employer: North Carolina Medical Board

Address: 3127 Smoke-tree Court

Raleigh NC 27604

Individual capacity ✓

Official capacity ✓

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

while here at Marion Correctional Institution I asked -  
continued page 1 Part 1

### III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain) \_\_\_\_\_

### IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

They arose from May 5<sup>th</sup> 2023 til present March 2024

D.

To obtain Reasonable accommodations Under the A.D.A and was denied with no Real Reason as to why I was being Denied.

Then Unit manager failed to state Reason why the refusal of Accommodation, nor did he address the issue of denial of mental Health Services, also Lied during Grievance process.

Part of the process in anything dealing with procedure is backed by my Rights under the 5<sup>th</sup> Amendment. To which Mr. Freeman, Mr. Haynes, And Ms. Langdon failed to comply and even Give me Copies of forms that By policy I'm entitled to.

Lastly, I wrote multiple referrals for Mental Health Lvl 3 status and I have been receiving these services from 2017 to May 2023, when I asked to see psych Doctor Langdon denied me this appointment which is Cruel and Unusual punishment. Negligence towards my seeking mental health services and lying about denial of services. Also Ms. Khandelwal denied to assist me with medical/mental health services.

#### IV. Statement of Claim (B):

Here at Marion Correctional Institution.

Phase 1 part 1 and 2 on Dunit, then Phase 2 part 1 and part 2 on Funft.

C. What date and approximate time did the events giving rise to your claim(s) occur?

This took place on 12/14/2023, Also from May 2023 til present (march 2024)

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

When I came to RDU I was supposed to be Mental Health Unit

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Mental and emotional damages, Punitive Damages, Compensatory Damages,

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

\$100,000<sup>00</sup> per defendant in Both Capacities, 20,000<sup>00</sup> in Both



D.

when I Got here to Marion Correctional Institution I found out by a male psychologist that I was Mental health Lvl 1, which is not what I asked for at Foothills Correctional Institution. I asked for MH Lvl 2 Status and if I needed my meds again then I could ask to see the psych doctor. Upon seeing the error I filled out the Referral form to which I was seen by Mrs. Langdon who told me she didn't know and that it would take up to 6 months to get on case load. I filed move to correct the error and yet she had me take a test which apparently I already took back in 2017 and was Given MH Lvl 3 status. She then states a false claim of malingering symptoms then denies to see me.

I wrote my Grievance about the A.D.A. Denial and of the lack of following Policy + Procedure. Also on the mental Health where Mr. Freedman who brought 1 copy of the denial form yet did not bring my copy. Then when I wrote my Grievance proceeded to state false claims and stated no error.

yet Since 2017 til 2023 I was MH Lvl 3 status and the mental health Diagnosis's I have do entitle me to reasonable accommodations Under the protections of the Americans With Disabilities Act.

yet Im being denied not only accommodations, Im being forced in a cell 23 hours and 1 hour a day on phase 2. on phase 1<sup>p+2</sup> Im being chained to a table full restraints, on phase 1 part 1 Im in a cell 24 hours a day + only allowed Rec when staff Allows me to. This is Cruel and unusual punishment, Then being Denied Mental Health services, Being denied my 5<sup>th</sup> Amendment of due process. Also wrote the medical who gave a biased Response with no remedy.



VI. Relief: Capacities for emotional and mental damages, Attorney fee and Court fees, Termination of employment, fines for not adhering to the A.D.A,

## VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Foothills Correctional + Marion Correctional (RDU)

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

The A.D.A., The 8<sup>th</sup> Amendment by denying mental health treatment, Also 5<sup>th</sup> Amendment Violation, negligence

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☒ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

Marion Correctional Institution.

2. What did you claim in your grievance?

Denial of A.D.A., And denial of M3 status, Indifference.

3. What was the result, if any?

They twisted facts and did not find any fault which always transpires.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I appealed it to the step 3 which came back already.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

*On these dates you will see that not only was deadlines on the Grievances*  
(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

### VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

G.

Time limits exceed the day limit and false information on the Summary. Also Ms. Langdon Lied also that she saw me 9x times and I've been here ~~11~~ months so there is no way she saw me 9 times.

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

\_\_\_\_\_

3. Docket or index number

\_\_\_\_\_

4. Name of Judge assigned to your case

\_\_\_\_\_

5. Approximate date of filing lawsuit

\_\_\_\_\_

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

\_\_\_\_\_

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☒ Yes

☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) Luis Antonio Rosado Jr.

Defendant(s) Superintendent Flemmings et, Al. (Jeshua Barnes et, al)

2. Court (if federal court, name the district; if state court, name the county and State)

3. Docket or index number

5:19-Ct-3358-BO

4. Name of Judge assigned to your case

Judge Terrence W. Boyle

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

Case pending Appeal with motion for Sanctions.



**IX. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

3/28/24

Signature of Plaintiff

Luis A. Rosado Jr.

Printed Name of Plaintiff

Luis Antonio Rosado Jr.

Prison Identification #

1087392

Prison Address

355 Old Glenwood RdMarion

City

NC

State

28752

Zip Code

**B. For Attorneys**

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address